

REMARKS

Claim 14 is cancelled, and claim 1 is amended to incorporate the features of cancelled claim 14. Claims 1-13 and 15-20 are pending. The claim amendments do not raise any new issue, does not raise the issue of new matter, and place the application in better condition for appeal. Therefore, the amendment should be entered. Favorable consideration is respectfully requested in light of the following remarks.

Rejection Under 35 U.S.C. § 102

Claims 1, 3, 4, 19 and 20 were rejected under 35 U.S.C. § 102(b) over U.S. Patent No. 5,843,027 to Stone et al. ("Stone"). The rejection is respectfully traversed.

Claim 1 recites the features of claim 14, which is not rejected under this ground of rejection.

Also, it is noted that the Office Action does not give the features of claims 19 and 20 patentable weight because these features allegedly are directed to the manner in which the claimed hose is used. See the paragraph bridging pages 3 to 4 of the Office Action. Applicant disagrees with these assertions.

Claim 19 recites that "the at least one marking section comprises a date or a production number." Claim 20 recites that "the at least one marking section indicates a material." The features of claims 19 and 20 define characteristics of the hose regardless of the use of the hose. For example, the material that a given hose is made from does not change when that hose is used for different uses.

Therefore, withdrawal of the rejection of claims 1, 3, 4, 19 and 20 is respectfully requested.

Rejections Under 35 U.S.C. § 103

A. Claim 5 stands rejected under 35 U.S.C. § 103(a) over Stone in view of U.S. Patent No. 5,576,072 to Hostettler et al. ("Hostettler"). The rejection is respectfully traversed.

Claim 5 depends from claim 1. As claim 14 is also not rejected under this ground of rejection, withdrawal of the rejection of claim 5 is respectfully requested.

B. Claim 14 stands rejected under 35 U.S.C. § 103(a) over Stone in view of U.S. Patent No. 6,086,942 to Carden, Jr. et al. ("Carden"). Claim 14 is cancelled. The rejection is respectfully traversed.

Claim 1, as amended, recites a multi-layer hose comprising an opaque, extrudable first layer; at least one opaque, extrudable second layer connected to the first layer; and at least one marking section comprising at least one character and/or number, the marking sections are provided in longitudinally spaced relationship with one another in a recurring mode of arrangement, the marking section being arranged between the first layer and the at least one second layer and adapted to be read making use of X rays. (Emphasis added.)

The claimed multi-layer hose comprises at least one marking section arranged between the first and second opaque layers. The marking section comprises at least one character and/or number, which can be read using X rays.

Stone does not suggest a multi-layer hose comprising each and every feature recited in Claim 1. As shown in Figure 1 of Stone, the balloon sheath 40 is located along the tubular body 12 between the manifold 18 and balloon 24. Stone discloses that the balloon sheath 40 can include "marker bands" located between the two layers 42, 44, at the proximal and/or distal regions of the sheath (column 5, lines 43-50).

The claimed marking section comprises "characters" and/or numbers that can be read using X rays to determine information about the multi-layer hose. Stone does not suggest that the marker bands include characters and/or numbers that provide information about any characteristic of the sheath. In contrast, the only information that Stone discloses the marker bands provide is their location relative to other elements of the device.

The Office Action takes the position that:

[T]he marking section taught by Stone et al. (radiopaque marker, col. 5, lines 43-50) comprises a character since any marking is a character because a character is a graphic symbol used in writing or printing as evidenced by definition 1b of Merriam-Webster Online Dictionary."

Applicant disagrees. First, Stone does not disclose "marking sections," but discloses "marker bands." The Office Action does not establish that Stone's "bands" are equivalent to the recited character and/or number, or that "any marking is a character." The referenced dictionary definition 1b defines a character as "a graphic symbol (as a hieroglyph or alphabet letter) used in writing or printing" (emphasis added). Stone, however, provides no disclosure regarding details of the structure or appearance of the "bands." Accordingly, the Office Action provides no basis for the assertion that Stone's "bands" are necessarily a "character."

Claim 1 also recites that the marking sections are provided in a longitudinally spaced relationship with one another in a recurring mode of arrangement. The recited arrangement of the marking sections, comprising at least one character and/or number, allows tracing back when the hose has already been separated into several subsections. See page 4, lines 19-21, of the specification. In contrast, Stone discloses that the balloon sheath 40 can include marker bands located at the proximal and/or distal regions of the sheath to enable visualization of the axial position of the sheath relative to other structures. As acknowledged in the Office Action, Stone does not suggest providing the marker bands in a longitudinally spaced relationship with one another in a recurring mode of arrangement, as claimed.

Applicant submits that Carden fails to provide the required suggestion or motivation to modify Stone's balloon sheath to result in the multi-layer hose recited in claim 1. In the section of suture shown in Figure 11 of Carden, radioactive material is applied in the form of bands. Carden does not disclose or suggest that the bands could alternatively be in the form of a character and/or number.

Also, Stone puts the marker bands at one end or both ends of the sheath to indicate position. Stone does not disclose or suggest that the markers are composed of radioactive material. In contrast, Stone discloses that the bands can be made from metals and alloys. See Stone at column 4, lines 54-56. Carden does not suggest modifying Stone's sheath by placing markers longitudinally along the sheath, as Stone is only concerned where the ends of the sheath are positioned. Also, Carden utilizes radioactive material for a specific purpose. Carden arranges the radioactive material in a specific manner along the suture, but does not disclose

or suggest modifying Stone's non-radioactive band material to have such arrangement. Thus, Applicant submits that the combination of Stone and Carden does not support the rejection of claim 1.

Therefore, withdrawal of this rejection is respectfully requested.

C. Claims 7 and 9 stand rejected under U.S.C. § 103(a) over Stone in view of U.S. Patent No. 6,508,784 to Shu ("Shu") and Carden, and further in view of U.S. Patent No. 6,471,758 to Kelderman et al. ("Kelderman"). The rejection is respectfully traversed.

Claims 7 and 9 depend ultimately from claim 1. Shu, Carden and Kelderman have been applied in the rejection for allegedly curing the deficiencies of Stone with respect to the compound recited in claims 7 and 9. Applicant submits that the applied combination of references does not suggest the multi-layer hose recited in claim 1, as amended. Accordingly, claims 7 and 9 would not have been rendered obvious by the applied references. Therefore, withdrawal of the rejection of claims 7 and 9 is respectfully requested.

D. Claim 8 stands rejected under U.S.C. § 103(a) over Stone in view of Shu and Carden, and further in view of U.S. Patent No. 6,375,634 to Carroll ("Carroll"). The rejection is respectfully traversed.

Claim 8 depends ultimately from claim 1. Shu, Carden and Carroll have been applied in the rejection for allegedly curing the deficiencies of Stone with regard to the compound recited in claim 8. Applicant submits that the applied combination of references does not suggest the multi-layer hose recited in claim 1, as amended.

Accordingly, claim 8 would not have been rendered obvious by the applied references. Therefore, withdrawal of the rejection of claim 8 is respectfully requested.

E. Claim 10 was rejected under 35 U.S.C. § 103(a) over Stone in view of Shu and Carden, and further in view of U.S. Patent No. 6,054,505 to Gundlach et al. ("Gundlach"). The rejection is respectfully traversed.

Claim 10 depends ultimately from claim 1. Shu, Carden and Gundlach have been applied in the rejection for allegedly curing the deficiencies of Stone with respect to the ink composition recited in claim 10. Applicant submits that the applied combination of references does not suggest the multi-layer hose recited in claim 1, as amended. Accordingly, claim 10 would not have been rendered obvious by the applied references. Therefore, withdrawal of the rejection of claim 10 is respectfully requested.

F. Claims 11-13 stand rejected under 35 U.S.C. § 103(a) over Stone in view of Shu, further in view of Carden. The rejection is respectfully traversed.

Claims 11-13 depend ultimately from claim 1. Shu and Carden have been applied in the rejection for allegedly curing the deficiencies of Stone with regard to the subject matter recited in claims 11-13. Applicant submits that the applied combination of references does not suggest the multi-layer hose recited in claim 1, as amended. Accordingly, claim 11-13 would not have been rendered obvious by the applied references. Therefore, withdrawal of the rejection of claims 11-13 is respectfully requested.

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Conclusion

For the foregoing reasons, allowance of the application is respectfully requested. If there are any questions concerning this response, Applicant's undersigned representative can be reached at the number below.

Respectfully submitted,

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